

BAXTER & SCHWARTZ, P.C.
5450 NW Central, Suite 307, Houston, Texas 77092
Tel: (713) 933-1522/Fax: (713) 460-3595
Attorneys for CENTEX HOME EQUITY COMPANY, LLC

File Number 295002617

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

IN RE:	§	CASE NO. 05-86305-HDH7
RYAN DEAN SAMUEL and	§	
CHRISTY LYNN SAMUEL fka	§	CHAPTER 7
CHRISTY LYNN GRIFFIN	§	
Debtor	§	
_____	§	
—	§	HEARING ON MOTION
CENTEX HOME EQUITY	§	FOR RELIEF FROM STAY:
COMPANY, LLC, AS SERVICING	§	
AGENT FOR CHEC 2003-C-121, its	§	DATE: January 11, 2006
successors in interest and assigns	§	TIME: 1:30 PM
Movant	§	
vs.	§	
RYAN DEAN SAMUEL and	§	
CHRISTY LYNN SAMUEL fka	§	
CHRISTY LYNN GRIFFIN and	§	
JEFFREY H. MIMS, TRUSTEE	§	
Respondents	§	

MOTION FOR RELIEF FROM STAY
AS TO 1714 AURORA DRIVE, RICHARDSON, TX

COMES NOW, Movant, CENTEX HOME EQUITY COMPANY, LLC, as servicing agent for CHEC 2003-C-121, its successors in interest and assigns, a secured creditor and party-in-interest, as owner or servicer, and moves the Court as follows:

1. This Court has jurisdiction over this contested matter pursuant to 28 U.S.C. Sections 1334 and 157(b) and 11 U.S.C. Sections 105 and 362. Debtor filed a Voluntary Petition for Relief under 11 U.S.C. Chapter 7 on October 15, 2005.
2. At the time the petition was filed, Debtor was indebted to Movant pursuant to a secured Adjustable Rate Note executed on May 27, 2003, in the original amount of \$112,800.00, with interest thereon. A true and correct copy of the Note is attached hereto as Exhibit "A."

3. The obligation of Debtor to pay the indebtedness is secured by a Deed of Trust, dated May 27, 2003. A true and correct copy of the Deed of Trust is attached hereto as Exhibit "B." . Said Deed of Trust, which was duly recorded in the DALLAS County Deed Records, grants Movant a lien on certain real property (Property) described as:

BEING LOT 8, BLOCK 29 OF ARAPAHO EAST NO. 4, FIRST INSTALLMENT, AN ADDITION TO THE CITY OF RICHARDSON, DALLAS COUNTY, TEXAS, ACCORDING TO THE PLAT THEREOF RECORDED IN VOLUME 72138, PAGE 1050, MAP RECORDS, DALLAS COUNTY, TEXAS.

PROPERTY ALSO KNOWN AS: 1714 AURORA DRIVE, RICHARDSON, TX 75081

4. Debtor is the current owner of the property and is in default on the obligation to Movant in that Debtor has failed to make installment payments when due and owing pursuant to the terms of the Note and Deed of Trust described herein. **At the time of filing, Debtor was due for the November 1, 2005, contractual payment and all subsequent payments thereafter. The current monthly payment is \$1,589.09. The arrearage presently due and owing exceeds \$3,178.18, plus late charges (\$51.29 each) and attorney fees (\$650.00).** The outstanding principal balance is \$110,743.50 plus accruing interest, late charges, escrow advances, and attorney's fees. The total payoff currently exceeds \$114,138.40 and Debtor's Schedule 'A' estimates the value to be \$136,720.00.

5. Debtor is unable to make payments of principal or interest to Movant and is unable to pay **taxes or insurance** on the property, all resulting in loss to Movant. Failure to make regular monthly payments deprives Movant of adequate protection, thereby constituting "cause" under 11 U.S.C. §362 (d)(1) to terminate the automatic stay as to Movant. Therefore, the Automatic Stay should be lifted pursuant to 11 U.S.C. §362(d) so as to permit Movant to pursue its contractual, statutory, and other remedies as are available.

6. By reason of the foregoing, cause exists for vacating the stay so Movant may proceed to **foreclose**, recover its interest in the property, and gain possession of the property in accordance with the Deed of Trust and Note.

7. In accordance with the terms of the Note and Deed of Trust, Debtor is liable for **costs and attorneys fees** incurred by Movant. Movant requests reasonable attorney fees as to the filing of this Motion.

8. The provision of Rule 4001(a)(3) should be waived and Movant be permitted to immediately enforce and implement any order granting relief from the automatic stay.

WHEREFORE Movant prays that its Motion for Relief from Stay be GRANTED, terminating the automatic stay as to Movant; alternatively, Movant be afforded adequate protection, including but not limited to, having all post-petition payments brought current and being reimbursed for reasonable attorney's fees and costs. Movant further prays that the Court waive the provision of Rule 4001(a)(3) and that Movant, its successors and assigns, be permitted to immediately enforce and implement any order granting relief from the automatic stay and that Movant be granted such other and further relief at law and equity as is just.

ANSWER REQUIRED. THE TRUSTEE OR THE DEBTOR SHALL FILE AN ANSWER TO ANY MOTION FOR RELIEF FROM THE AUTOMATIC STAY WITHIN TWELVE (12) DAYS FROM THE SERVICE OF THE MOTION. THE DEBTOR'S ANSWER SHALL INCLUDE A DETAILED AND COMPREHENSIVE STATEMENT AS TO HOW THE MOVANT CAN BE "ADEQUATELY PROTECTED" IF THE STAY IS TO BE CONTINUED. IF THE DEBTOR DOES NOT FILE A RESPONSE AS REQUIRED, THE ALLEGATIONS IN THE CREDITOR'S MOTION FOR RELIEF FROM THE AUTOMATIC STAY SHALL BE DEEMED ADMITTED, UNLESS GOOD CAUSE IS SHOWN WHY THESE ALLEGATIONS SHOULD NOT BE DEEMED ADMITTED, AND AN ORDER GRANTING THE RELIEF SOUGHT MAY BE ENTERED BY DEFAULT.

Respectfully submitted,
BAXTER & SCHWARTZ, P.C.
/s/ Angela K. Randermann
ANGELA K. RANDERMANN
State Bar No. 24029787 (31688)
Attorneys for CENTEX HOME EQUITY COMPANY, LLC

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Motion was noticed electronically or mailed on 12/22/2005 via regular First Class Mail, postage prepaid, as listed below:

/s/ Angela K. Randermann
ANGELA K. RANDERMANN

Debtor
RYAN DEAN SAMUEL and
CHRISTY LYNN SAMUEL fka
CHRISTY LYNN GRIFFIN
1714 AURORA DR.
RICHARDSON, TX 75081

Trustee
JEFFREY H. MIMS
3102 OAK LAWN AVE., SUITE 700
DALLAS, TX 75219

Debtor Attorney
MARCUS B. LEINART
11520 N. CENTRAL EXPWY
SUITE 212
DALLAS, TX 75243

Notices of Appearance
NONE

UST US TRUSTEE
WILLIAM T. NEARY
1100 COMMERCE STREET
ROOM 976
DALLAS, TX 75242-1496

CERTIFICATE OF CONFERENCE

I certify that counsel for Debtor was contacted before filing Motion for Relief from Stay as follows:

DATE & TIME

12/15/05 2:35 PM

COMMENTS

Attorney Chris Elliott spoke with attorney Richard Anderson, who stated that his client was opposed to the motion.

/s/ Angela K. Randermann
ANGELA K. RANDERMANN